

CIVIL CASE NO. 3:08cv541

Defendant.

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ORDER OF REMAND

Sentence four of 42 U.S.C. §405(g) provides in pertinent part, "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties have moved for reversal of the decision of the Defendant and for remand for further administrative proceedings.

Specifically, the parties ask that the Commissioner be instructed to assign this matter to an Administrative Law Judge (ALJ) for a new hearing at which the Plaintiff will be allowed to testify and present evidence. The ALJ shall give consideration to the claimant's residual functional capacity, shall consider step four of the sequential evaluation process, and, if necessary, obtain evidence from a vocational expert. In addition, because a subsequent application has been filed, the ALJ shall associate the subsequent claim file with the current claim file and make it part of the administrative record. The Court finds remand is appropriate. Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

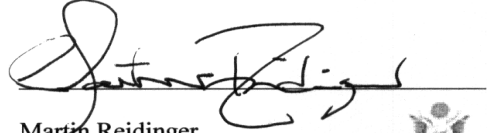
IT IS, THEREFORE, ORDERED that the parties' Assented to Motion for Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 11] is hereby **GRANTED**; and

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is remanded; and


IT IS FURTHER ORDERED that upon remand, the Defendant shall assign this matter to an Administrative Law Judge who will (1) conduct a new hearing at which the Plaintiff will be allowed to testify and present evidence; (2) give consideration to the claimant's residual functional capacity; (3) consider step four of the sequential evaluation process; (4) if

necessary, obtain evidence from a vocational expert; and (5) associate the subsequent claim file with the current claim file and make it part of the administrative record.

A Judgment of Remand is entered simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.



Martin Reidinger
United States District Judge



Signed: April 14, 2009